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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/485,292	05/03/2000	ULRICH KLAR	SCH1742	1743

7590 06/26/2007

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2200 CLARENDON BOULEVARD  
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ARLINGTON, VA 22201

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 06/26/2007

Please find below and/or attached an Office communication concerning this application or proceeding.



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09485292	5/3/2000	KLAR ET AL.	SCH1742

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EXAMINER

Celia Chang

ART UNIT	PAPER
1625	20070619

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See attachment

Celia Chang  
Primary Examiner  
Art Unit 1625

### DETAILED ACTION

1. A notice of appeal dated Dec. 14, 2006 and an appeal brief dated Feb. 23, 2007 were filed by applicants.

2. The appeal brief filed on Feb. 23, 2007 is unacceptable because the claims contain subject matter which are not appealable. See MPEP §1201.

Please note that the line of demarcation between appealable matters for the Board of Patent appeals and Interferences and petitionable matters for the Director of the U.S. Patent and Trademark Office should be carefully observed.

Please note that in the after final office action dated September 14, 2006, the issue of the scope of examination based on restriction requirement of record were clearly delineated. And hereby incorporated by reference.

Applicants have neither amended the claims to the elected invention nor *traverse* and petition with respect to the restriction.

The subject matter under examination was made clear in the record in the office action dated Aug. 27, 2002.

Please note that the issues of 112 first paragraph, 103(a) rejection and whether the declaration filed under 37 CFR 1.132 is commensurate in scope with the claims must all be decided *corresponding to the "claimed/examined" scope* for which applicants have not provided a set of claims which are drawn to the election without traverse of the subject matter surrounds the compound (4S, 7R, 8S, 9S, 13Z, 16S (E))-4,8-dihydroxy-7-ethyl- 16-( 1 -methyl-2-

Art Unit: 1625

(2-methyl-4-thiazolyl) ethenyl)- 1 -oxa-5,5,9,13-tetramethyl-cyclohexadec- 13-ene-2,6-dione

(A).

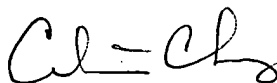
The appeal will be dismissed unless appellant obtains an extension of time under 37 CFR 1.136(a). The date on which the appeal brief, the fee for filing the brief, the petition under 37 CFR 1.136(a), and the extension fee under 37 CFR 1.17(a) are filed will be the date of the reply and also the date for determining the period of extension and the corresponding amount of the fee. In no case may an appellant obtain an extension for more than FIVE MONTHS under 37 CFR 1.136(a) beyond the TWO MONTH period for filing the appeal brief.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celia Chang whose telephone number is 571-272-0679. The examiner can normally be reached on Monday through Thursday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres, Ph. D., can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OACS/Chang  
Jun. 19, 2007

  
Celia Chang  
Primary Examiner  
Art Unit 1625